

House Bill 956

By: Representatives Holt of the 112th, Willard of the 49th, Roberts of the 154th, and England of the 108th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 5-6-34 of the Official Code of Georgia Annotated, relating to
2 judgments and rulings deemed directly appealable, so as to provide for direct appeal of
3 zoning decisions; to amend Chapter 66 of Title 36 of the Official Code of Georgia
4 Annotated, relating to zoning procedures, so as to provide for consistency in review of
5 zoning decisions; to provide for rebuttable presumptions related to zoning decisions; to
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 5-6-34 of the Official Code of Georgia Annotated, relating to judgments and
10 rulings deemed directly appealable, is amended in subsection (a) by striking "and" after
11 paragraph (9), by replacing the period at the end of paragraph (10) with "; and", and by
12 adding a new paragraph to read as follows:

13 "(11) All judgments or orders pertaining to the constitutionality of zoning decisions by
14 local governments."

15 **SECTION 2.**

16 Chapter 66 of Title 36 of the Official Code of Georgia Annotated, relating to zoning
17 procedures, is amended by adding a new Code section to read as follows:

18 "36-66-7.

19 (a) It shall be a rebuttable presumption that zoning decisions by local governments are
20 valid. To overcome such presumption, the burden of proof shall be on the property owner
21 to prove by clear and convincing evidence that the property owner has suffered a
22 significant detriment in the use of his or her property and that the zoning decision is not
23 substantially related to the public health, safety, morality, or general welfare.

24 (b) In determining whether there is a significant detriment to a property owner making a
25 rezoning request, a potential increase in the value of the property if the property were

1 rezoned shall be irrelevant. Where a request for rezoning is being reviewed, the
2 consideration shall be whether the property has value under its existing zoning or whether
3 the owner will suffer an economic loss if the property is not rezoned.

4 (c) If the local government has a comprehensive development plan in place, it shall be a
5 rebuttable presumption that the zoning decision is substantially related to the public welfare
6 and promotes a significant public interest if the zoning decision is in accordance with such
7 comprehensive development plan."

8 **SECTION 3.**

9 All laws and parts of laws in conflict with this Act are repealed.